

# **EXHIBIT B**

**United States District Court**

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

WEN JUN CHENG, a.k.a. TONY CHENG

DEFENDANT(S).

**INDICTMENT**

15 U.S.C. Section 1  
(Conspiracy in Restrain of Trade)

A true bill.

*[Signature]*

Foreman

Filed in open court this 10<sup>th</sup> day of

August 2009

*[Signature]*

Clerk

*[Signature]*

Bail, \$ 10,000 bail warrant

FILED  
AUG 18 2:30  
RICHARD  
ROLES  
CLERK  
U.S. DISTRICT COURT  
SAN FRANCISCO  
CALIFORNIA

PJH

0836

AO 257 (Rev. 8/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING
**OFFENSE CHARGED**

15 U.S.C. Section 1 (Conspiracy in Restraint of Trade)

☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony

PENALTY: See attachment

Name of District Court, and/or Judge/Magistrate Location

 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION
**DEFENDANT - U.S.**

WEN JUN CHENG, a.k.a. TONY CHENG

DISTRICT COURT NUMBER

**PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

FEDERAL BUREAU OF INVESTIGATION

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under
**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

☒ If not detained give date any prior summons was served on above charges

☐ Is a Fugitive

☐ Is on Bail or Release from (show District)
**IS IN CUSTODY**
☐ On this charge

☐ On another conviction

☐ Federal ☐ State

☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Lidia Maher, Trial Attorney, ATD

☐ This report amends AO 257 previously submitted
**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☐ SUMMONS ☐ NO PROCESS\* ☒ WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

\* Where defendant previously apprehended on complaint, no new summons or arrest needed, since Magistrate has scheduled arraignment

Defendant Address: #

Before Judge: \_\_\_\_\_

Comments:

PENALTY SHEET

Individual: WEN JUN CHENG, a.k.a. TONY CHENG

Offense Charged: 15 U.S.C. Section 1 (Conspiracy in Restrain of Trade)

Maximum Penalties:

1. A fine in an amount equal to the largest of:
  - A. \$1,000,000.00
  - B. Twice the gross pecuniary gain derived from the crime.
  - C. Twice the gross pecuniary loss caused to the victims of the crime.
2. A term of imprisonment for ten years.
3. A term of supervised release of at least two years but not more than three years.
4. \$100 special assessment.
5. Restitution.

FILED  
03 AUG 18 PM 2:34  
RICHARD J. HENNING  
CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PJH

0836

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

v.

WEN JUN CHENG, a.k.a. TONY CHENG

Defendant.

**CR 09**

**0836**

**INDICTMENT**

**VIOLATION:**  
Title 15, United States Code,  
Section 1 (Conspiracy in Restraint of Trade)

San Francisco Venue

The Grand Jury charges that:

**I.**

**DESCRIPTION OF THE OFFENSE**

1. The following individual is hereby indicted and made a defendant on the charge stated below: WEN JUN CHENG, a.k.a. TONY CHENG.

2. Beginning at least as early as January 1997, until at least as late as March 2006, the exact dates being unknown to the Grand Jury, coconspirators of the defendant joined, entered into, and engaged in a combination and conspiracy to suppress and eliminate competition by fixing prices, reducing output, and allocating market shares of color display tubes ("CDTs") to be sold in the United States and elsewhere. The combination and conspiracy engaged in by the defendant and coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

INDICTMENT – PAGE 1

4. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and coconspirators, the substantial terms of which were to agree to fix prices, reduce output, and allocate market shares of CDTs to be sold in the United States and elsewhere for use in computer monitors and other products with similar technological requirements.

## MEANS AND METHODS OF THE CONSPIRACY

- (a) attending meetings and engaging in conversations and communications in Taiwan, Korea, Malaysia, China, and elsewhere to discuss the prices, output, and market shares of CDTs;
- (b) agreeing during those meetings, conversations, and communications to charge prices of CDTs at certain target levels or ranges;
- (c) agreeing during those meetings, conversations, and communications to reduce output of CDTs by shutting down CDT production lines for certain periods of time;
- (d) agreeing during those meetings, conversations, and communications to allocate target market shares for the CDT market overall and for certain CDT customers;
- (e) exchanging CDT sales, production, market share, and pricing information for the purpose of implementing, monitoring, and enforcing adherence to the agreed-upon prices, output reduction, and market share allocation;
- (f) implementing an auditing system that permitted coconspirators to visit each

1 other's production facilities to verify that CDT production lines had been  
2 shut down as agreed;

3 (g) authorizing and approving the participation of subordinate employees in the  
4 conspiracy;

5 (h) issuing price quotations and reducing output in accordance with the  
6 agreements reached; and

7 (i) taking steps to conceal the conspiracy and conspiratorial contacts through  
8 various means.

9 III.

10 DEFENDANT AND COCONSPIRATORS

11 6. Defendant WEN JUN CHENG is a resident of Taiwan, Republic of China. From  
12 at least as early as January 1999 and continuing until at least September 2004, WEN JUN  
13 CHENG was employed by Company A and, beginning in March 2002, was Assistant Vice  
14 President of Sales and Marketing for Company A. During the period covered by this Indictment,  
15 Company A was a Taiwanese company engaged in the business of producing and selling, among  
16 other things, CDTs to customers in the United States and elsewhere.

17 7. Various corporations and individuals not made defendants in this Indictment  
18 participated as coconspirators in the offense charged in this Indictment and performed acts and  
19 made statements in furtherance of it.

20 8. Whenever in this Indictment reference is made to any act, deed, or transaction of  
21 any corporation, the allegation means that the corporation engaged in the act, deed, or transaction  
22 by or through its officers, directors, employees, agents, or other representatives while they were  
23 actively engaged in the management, direction, control, or transaction of its business or affairs.

24 IV.

25 TRADE AND COMMERCE

26 9. CDTs are a type of cathode ray tube. Cathode ray tubes consist of evacuated glass  
27 envelopes that contain an electron gun and a phosphorescent screen. When electrons strike the  
28 screen, light is emitted, creating an image on the screen. CDTs are the specialized cathode ray

1 tubes manufactured for use in computer monitors and other products with similar technological  
2 requirements.

3 10. During the period covered by this Indictment, Company A and coconspirators sold  
4 and distributed substantial quantities of CDTs in a continuous and uninterrupted flow of interstate  
5 and foreign trade and commerce to customers located in states or countries other than the states or  
6 countries in which Company A and coconspirators produced CDTs. In addition, payments for  
7 CDTs traveled in interstate and foreign trade and commerce.

8 11. During the period covered by this Indictment, the business activities of the  
9 defendant and coconspirators related to the sale and distribution of CDTs that are the subject of  
10 this Indictment were within the flow of, and substantially affected, interstate and foreign trade and  
11 commerce.

12 V.

13 JURISDICTION AND VENUE

14 12. The combination and conspiracy charged in this Indictment was carried out, in  
15 part, in the Northern District of California, within the five years preceding the filing of this  
16 Indictment.

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INDICTMENT – PAGE 4

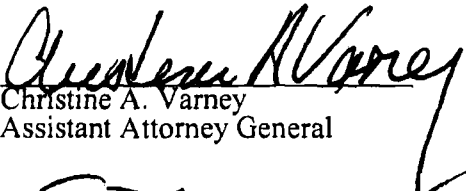


1 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

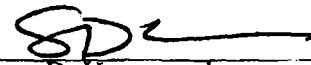
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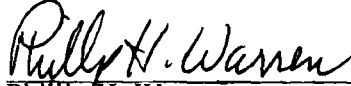
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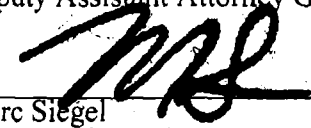
A TRUE BILL

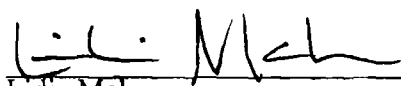
3  
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Christine A. Varney  
5 Assistant Attorney General

 8/18/09  
FOREPERSON

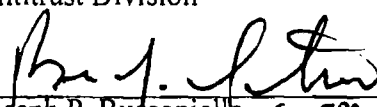
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